

## SENATE BILL No. 308

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-1.1; IC 36-2-15-2; IC 36-6-4-2; IC 36-6-5-1.

**Synopsis:** Qualification of assessing personnel. Allows the county fiscal body to reduce the compensation of a county assessor, an elected township assessor, or a trustee assessor who does not obtain a required assessor-appraiser certification, in an amount proportional to the assessor's real property assessment duties.

**Effective:** July 1, 2005.

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**Young R Michael**

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January 6, 2005, read first time and referred to Committee on Governmental Affairs and Interstate Cooperation.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## SENATE BILL No. 308

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 6-1.1-1-1.5 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.5. (a) "Assessing  
3 official" means:

- 4 (1) a township assessor; ~~including a trustee assessor~~; or  
5 (2) a member of a county property tax assessment board of  
6 appeals.

7 (b) The term "assessing official" does not grant a member of the  
8 county property tax assessment board of appeals primary assessing  
9 functions except as may be granted to the member by law.

10 SECTION 2. IC 6-1.1-1-5.5 IS ADDED TO THE INDIANA CODE  
11 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
12 1, 2005]: **Sec. 5.5. "Elected township assessor" means a township**  
13 **assessor elected under IC 36-6-5-1.**

14 SECTION 3. IC 6-1.1-1-22 IS AMENDED TO READ AS  
15 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. "Township  
16 assessor" includes:

- 17 (1) **an elected township assessor; and**

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(2) a township trustee who is required by law to act as the assessor for the township he serves: assessor.

SECTION 4. IC 6-1.1-1-22.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 22.7. "Trustee assessor" means a township executive who performs the duties of assessor under IC 36-6-5-2.**

SECTION 5. IC 6-1.1-4-28.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28.5. (a) Money assigned to a property reassessment fund under section 27.5 of this chapter may be used only to pay the costs of:

- (1) the general reassessment of real property, including the computerization of assessment records;
- (2) payments to county assessors, members of property tax assessment boards of appeals, or assessing officials under IC 6-1.1-35.2;
- (3) the development or updating of detailed soil survey data by the United States Department of Agriculture or its successor agency;
- (4) the updating of plat books; and
- (5) payments for the salary of permanent staff or for the contractual services of temporary staff who are necessary to assist county assessors, members of a county property tax assessment board of appeals, and assessing officials.

(b) All counties shall use modern, detailed soil maps in the general reassessment of agricultural land.

(c) The county treasurer of each county shall, in accordance with IC 5-13-9, invest any money accumulated in the property reassessment fund until the money is needed to pay general reassessment expenses. Any interest received from investment of the money shall be paid into the property reassessment fund.

(d) An appropriation under this section must be approved by the fiscal body of the county after the review and recommendation of the county assessor. However, in a county with an elected township assessor ~~under IC 36-6-5-1~~ in every township, the county assessor does not review an appropriation under this section, and only the fiscal body must approve an appropriation under this section.

SECTION 6. IC 6-1.1-4-35, AS ADDED BY P.L.1-2004, SECTION 4, AND AS ADDED BY P.L.23-2004, SECTION 5, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 35. (a) This section applies to a county other than a county subject to section 32 of this chapter.

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(b) This section applies to a general reassessment of real property conducted under section 4(a) of this chapter that is scheduled to become effective for property taxes first due and payable in 2003.

(c) As used in this section, "department" refers to the department of local government finance.

(d) As used in this section, "reassessment official" means: ~~any of the following:~~

(1) a county assessor; **or**

(2) a township assessor.

~~(3) A township trustee-assessor.~~

(e) If:

(1) the department determines that a county's reassessment officials are unable to complete the reassessment in a timely manner; or

(2) the department determines that a county's reassessment officials are likely to complete the reassessment in an inaccurate manner;

the department may order a state conducted reassessment in the county. The department may consider a reassessment in a county untimely if the county does not submit the county's equalization study to the department in the manner prescribed under 50 IAC 14 before October 20, 2003. The department may consider the reassessment work of a county's reassessment officials inaccurate if the department determines from a sample of the assessments completed in the county that there is a variance exceeding ten percent (10%) between the total assessed valuation of the real property within the sample and the total assessed valuation that would result if the real property within the sample were valued in the manner provided by law.

(f) If the department orders a state conducted reassessment in a county, the department shall assume the duties of the county's reassessment officials. Notwithstanding sections 15 and 17 of this chapter, a reassessment official in a county subject to an order issued under this section may not assess property or have property assessed for the general reassessment. Until the state conducted reassessment is completed under this section, the reassessment duties of a reassessment official in the county are limited to providing the department or a contractor of the department the support and information requested by the department or the contractor.

(g) Before assuming the duties of a county's reassessment officials, the department shall transmit a copy of the department's order requiring a state conducted reassessment to the county's reassessment officials, the county fiscal body, the county auditor, and the county treasurer.

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1 Notice of the department's actions must be published one (1) time in a  
 2 newspaper of general circulation *published* in the county. The  
 3 department is not required to conduct a public hearing before taking  
 4 action under this section.

5 (h) Township and county officials in a county subject to an order  
 6 issued under this section shall, at the request of the department or the  
 7 department's contractor, make available and provide access to all:

- 8 (1) data;
- 9 (2) records;
- 10 (3) maps;
- 11 (4) parcel record cards;
- 12 (5) forms;
- 13 (6) computer software systems;
- 14 (7) computer hardware systems; and
- 15 (8) other information;

16 related to the reassessment of real property in the county. The  
 17 information described in this subsection must be provided at no cost to  
 18 the department or the contractor of the department. A failure to provide  
 19 information requested under this subsection constitutes a failure to  
 20 perform a duty related to a general reassessment and is subject to  
 21 IC 6-1.1-37-2.

22 (i) The department may enter into a contract with a professional  
 23 appraising firm to conduct a reassessment under this section. If a  
 24 county or a township located in the county entered into a contract with  
 25 a professional appraising firm to conduct the county's reassessment  
 26 before the department orders a state conducted reassessment in the  
 27 county under this section, the contract:

- 28 (1) is as valid as if it had been entered into by the department; and
- 29 (2) shall be treated as the contract of the department.

30 (j) After receiving the report of assessed values from the appraisal  
 31 firm acting under a contract described in subsection (i), the department  
 32 shall give notice to the taxpayer and the county assessor, by mail, of the  
 33 amount of the reassessment. The notice of reassessment:

- 34 (1) is subject to appeal by the taxpayer under section 37 of this  
 35 chapter; and
- 36 (2) must include a statement of the taxpayer's rights under section  
 37 37 of this chapter.

38 (k) The department shall forward a bill for services provided under  
 39 a contract described in subsection (i) to the auditor of the county in  
 40 which the state conducted reassessment occurs. The county shall pay  
 41 the bill under the procedures prescribed by subsection (l).

42 (l) A county subject to an order issued under this section shall pay

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the cost of a contract described in subsection (i), without appropriation, from the county's property reassessment fund. A contractor may periodically submit bills for partial payment of work performed under the contract. Notwithstanding any other law, a contractor is entitled to payment under this subsection for work performed under a contract if the contractor:

- (1) submits to the department a fully itemized, certified bill in the form required by IC 5-11-10-1 for the costs of the work performed under the contract;
- (2) obtains from the department:
  - (A) approval of the form and amount of the bill; and
  - (B) a certification that the billed goods and services have been received and comply with the contract; and
- (3) files with the county auditor:
  - (A) a duplicate copy of the bill submitted to the department;
  - (B) proof of the department's approval of the form and amount of the bill; and
  - (C) the department's certification that the billed goods and services have been received and comply with the contract.

The department's approval and certification of a bill under subdivision (2) shall be treated as conclusively resolving the merits of a contractor's claim. Upon receipt of the documentation described in subdivision (3), the county auditor shall immediately certify that the bill is true and correct without further audit, publish the claim as required by IC 36-2-6-3, and submit the claim to the county executive. The county executive shall allow the claim, in full, as approved by the department, without further examination of the merits of the claim in a regular or special session that is held not less than three (3) days and not more than seven (7) days after the completion of the publication requirements under IC 36-2-6-3. Upon allowance of the claim by the county executive, the county auditor shall immediately issue a warrant or check for the full amount of the claim approved by the department. Compliance with this subsection constitutes compliance with section 28.5 of this chapter, IC 5-11-6-1, IC 5-11-10, and IC 36-2-6. The determination and payment of a claim in compliance with this subsection is not subject to remonstrance and appeal. IC 36-2-6-4(f) and IC 36-2-6-9 do not apply to a claim submitted under this subsection. IC 5-11-10-1.6(d) applies to a fiscal officer who pays a claim in compliance with this subsection.

(m) Notwithstanding IC 4-13-2, a period of seven (7) days is permitted for each of the following to review and act under IC 4-13-2 on a contract of the department entered into under this section:

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(1) The commissioner of the Indiana department of administration.

(2) The director of the budget agency.

(3) The attorney general.

(n) If the money in a county's property reassessment fund is insufficient to pay for a reassessment conducted under this section, the department may increase the tax rate and tax levy of the county's property reassessment fund to pay the cost and expenses related to the reassessment.

(o) The department or the contractor of the department shall use the land values determined under section 13.6 of this chapter for a county subject to an order issued under this section to the extent that the department or the contractor finds that the land values reflect the true tax value of land, as determined under this article and the rules of the department. If the department or the contractor finds that the land values determined for the county under section 13.6 of this chapter do not reflect the true tax value of land, the department or the contractor shall determine land values for the county that reflect the true tax value of land, as determined under this article and the rules of the department. Land values determined under this subsection shall be used to the same extent as if the land values had been determined under section 13.6 of this chapter. The department or the contractor of the department shall notify the county's reassessment officials of the land values determined under this subsection.

(p) A contractor of the department may notify the department if:

(1) a county auditor fails to:

(A) certify the contractor's bill;

(B) publish the contractor's claim;

(C) submit the contractor's claim to the county executive; or

(D) issue a warrant or check for payment of the contractor's bill;

as required by subsection (l) at the county auditor's first legal opportunity to do so;

(2) a county executive fails to allow the contractor's claim as legally required by subsection (l) at the county executive's first legal opportunity to do so; or

(3) a person or an entity authorized to act on behalf of the county takes or fails to take an action, including failure to request an appropriation, and that action or failure to act delays or halts progress under this section for payment of the contractor's bill.

(q) The department, upon receiving notice under subsection (p) from a contractor of the department, shall:

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(1) verify the accuracy of the contractor's assertion in the notice that:

(A) a failure occurred as described in subsection (p)(1) or (p)(2); or

(B) a person or *an* entity acted or failed to act as described in subsection (p)(3); and

(2) provide to the treasurer of state the department's approval under subsection (l)(2)(A) of the contractor's bill with respect to which the contractor gave notice under subsection (p).

(r) Upon receipt of the department's approval of a contractor's bill under subsection (q), the treasurer of state shall pay the contractor the amount of the bill approved by the department from money in the possession of the state that would otherwise be available for distribution to the county, including distributions from the property tax replacement fund or distribution of admissions taxes or wagering taxes.

(s) The treasurer of state shall withhold from the money that would be distributed under IC 4-33-12-6, IC 4-33-13-5, IC 6-1.1-21-4(b) or any other law to a county described in a notice provided under subsection (p) the amount of a payment made by the treasurer of state to the contractor of the department under subsection (r). Money shall be withheld first from the money payable to the county under IC 6-1.1-21-4(b) and then from all other sources payable to the county.

(t) Compliance with subsections (p) through (s) constitutes compliance with IC 5-11-10.

(u) IC 5-11-10-1.6(d) applies to the treasurer of state with respect to the payment made in compliance with subsections (p) through (s). This subsection and subsections (p) through (s) must be interpreted liberally so that the state shall, to the extent legally valid, ensure that the contractual obligations of a county subject to this section are paid. Nothing in this section shall be construed to create a debt of the state.

(v) The provisions of this section are severable as provided in IC 1-1-1-8(b).

(w) This section expires January 1, 2007.

SECTION 7. IC 6-1.1-5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. Not later than May 15, each assessing official shall prepare and deliver to the county assessor a detailed list of the real property listed for taxation in the township. On or before July 1 of each year, each county assessor shall, under oath, prepare and deliver to the county auditor a detailed list of the real property listed for taxation in the county. In a county with an elected township assessor ~~under IC 36-6-5-1~~ in every township the township assessor shall prepare the real property list. The assessing

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officials and the county assessor shall prepare the list in the form prescribed by the department of local government finance. The township assessor shall ensure that the county assessor has full access to the assessment records maintained by the township assessor.

SECTION 8. IC 6-1.1-8-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. (a) Each year a township assessor shall assess the fixed property which as of the assessment date of that year is:

- (1) owned or used by a public utility company; and
- (2) located in the township the township assessor serves.

(b) The township assessor shall determine the assessed value of fixed property. The township assessor shall certify the assessed values to the county assessor on or before April 1 of the year of assessment. However, in a county with an elected township assessor ~~under IC 36-6-5-1~~ in every township the township assessor shall certify the list to the department of local government finance. The county assessor shall review the assessed values and shall certify the assessed values to the department of local government finance on or before April 10 of the year of assessment.

SECTION 9. IC 6-1.1-31.5-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.5. (a) ~~After December 31, 1998~~, Each county shall maintain a state certified computer system that has the capacity to:

- (1) process and maintain assessment records;
- (2) process and maintain standardized property tax forms;
- (3) process and maintain standardized property assessment notices;
- (4) maintain complete and accurate assessment records for the county; and
- (5) process and compute complete and accurate assessments in accordance with Indiana law.

The county assessor with the recommendation of the township assessors shall select the computer system used by township assessors and the county assessor in the county except in a county with ~~a~~ **an elected** township assessor ~~elected under IC 36-6-5-1~~ in every township. In a county with an elected township assessor ~~under IC 36-6-5-1~~ in every township, the elected township assessors shall select a computer system based on a majority vote of the township assessors in the county.

(b) All information on the computer system shall be readily accessible to:

- (1) township assessors;

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- 1 (2) the county assessor;  
 2 (3) the department of local government finance; and  
 3 (4) members of the county property tax assessment board of  
 4 appeals.

5 (c) The certified system used by the counties must be compatible  
 6 with the data export and transmission requirements in a standard  
 7 format prescribed by the department of local government finance. The  
 8 certified system must be maintained in a manner that ensures prompt  
 9 and accurate transfer of data to the department.

10 (d) All standardized property forms and notices on the certified  
 11 computer system shall be maintained by the township assessor and the  
 12 county assessor in an accessible location and in a format that is easily  
 13 understandable for use by persons of the county.

14 SECTION 10. IC 6-1.1-35-1.1 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.1. (a) Each county  
 16 assessor and each elected **township** assessor who has not attained the  
 17 certification of a "level two" assessor-appraiser under IC 6-1.1-35.5  
 18 must employ at least one (1) certified "level two" assessor-appraiser.

19 (b) Each ~~elected~~ county assessor **and each** township assessor ~~or~~  
 20 ~~elected trustee-assessor~~ must:

- 21 (1) attain the certification of a "level one" assessor-appraiser  
 22 **within not later than** one (1) year after taking office; and  
 23 (2) attain the certification of a "level two" assessor-appraiser  
 24 **within not later than** two (2) years after taking office.

25 (c) ~~An A county assessor or trustee-assessor township assessor~~  
 26 ~~who does not comply with this subsection forfeits the assessor's or~~  
 27 ~~trustee-assessor's office.~~

28 (e) ~~A county assessor, township assessor, or trustee-assessor~~  
 29 ~~appointed to fill a vacancy resulting from a forfeiture of office under~~  
 30 ~~subsection (b) is subject to the requirements of subsection (b) is~~  
 31 **subject to forfeiture of the part of the assessor's annual**  
 32 **compensation that relates to real property assessment duties. The**  
 33 **county fiscal body may reduce the appropriations for the annual**  
 34 **compensation of a township assessor or county assessor under this**  
 35 **subsection in an amount that bears the same proportion to the**  
 36 **assessor's annual compensation that the time during the year**  
 37 **required for the performance of the assessor's real property**  
 38 **assessment duties bears to the time during the year required for**  
 39 **the performance of the assessor's overall duties. The assessor's**  
 40 **annual compensation is reduced by the amount of the**  
 41 **appropriation reduction.**

42 SECTION 11. IC 6-1.1-35.2-1 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The department of local government finance shall provide training to the members of the county property tax assessment boards of appeals, and the county **and** township ~~and trustee~~ assessors (referred to in this chapter as assessing officials) as provided in this chapter.

SECTION 12. IC 36-2-15-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A county assessor shall be elected under IC 3-10-2-13 by the voters of the county.

(b) To be eligible to serve as an assessor, a person must meet the qualifications prescribed by IC 3-8-1-23. ~~and IC 6-1.1-35-1.1.~~

(c) A county assessor must reside within the county as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The assessor forfeits office if the assessor ceases to be a resident of the county. ~~or fails to comply with IC 6-1.1-35-1.1.~~

(d) The term of office of a county assessor is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified.

SECTION 13. IC 36-6-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A township trustee shall be elected under IC 3-10-2-13 by the voters of each township. The trustee is the township executive.

(b) The township trustee must reside within the township as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The trustee forfeits office if the trustee

~~(1) ceases to be a resident of the township. or~~

~~(2) serves as township assessor under IC 36-6-5-2 and fails to comply with IC 6-1.1-35-1.1.~~

(c) The term of office of a township trustee is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified.

SECTION 14. IC 36-6-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A township assessor shall be elected under IC 3-10-2-13 by the voters of each township having:

(1) a population of more than eight thousand (8,000); or

(2) an elected township assessor or the authority to elect a township assessor before January 1, 1979.

(b) A township assessor shall be elected under IC 3-10-2-14 in each township having a population of more than five thousand (5,000) but not more than eight thousand (8,000), if the legislative body of the township:

(1) by resolution, declares that the office of township assessor is

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necessary; and

(2) the resolution is filed with the county election board not later than the first date that a declaration of candidacy may be filed under IC 3-8-2.

(c) The township assessor must reside within the township as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The assessor forfeits office if the assessor ceases to be a resident of the township. ~~or fails to comply with the requirements of IC 6-1.1-35-1.1.~~

(d) The term of office of a township assessor is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified. However, the term of office of a township assessor elected at a general election in which no other township officer is elected ends on December 31 after the next election in which any other township officer is elected.

**SECTION 15. [EFFECTIVE JULY 1, 2005] IC 6-1.1-35-1.1, as amended by this act, applies only to a:**

**(1) county assessor;**

**(2) township assessor elected under IC 36-6-5-1; or**

**(3) township executive who performs the duties of assessor under IC 36-6-5-2;**

**elected to a new term of office that begins after June 30, 2005.**

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